

EXTENSION OF TIME

The shortened statutory period for responding to the Office Action mailed April 6, 2004 was set to expire on July 6, 2004. The fee of \$420.00 for a **TWO-MONTH EXTENSION** is enclosed so that the period for response will expire **SEPTEMBER 6, 2004** (Labor Day).

REMARKS

Re-examination of the application is requested under 35 USC § 132 in view of the amendments above and the remarks which follow. Claims 1-21 are presented for examination, a total of 21 claims. Claims 6 and 7 have been withdrawn from consideration as directed to a non-elected invention. The fee for the additional claims is enclosed.

RESTRICTION REQUIREMENT

The Examiner has treated method Claims 6 and 7 submitted with the previous response as being drawn to an invention that is independent or distinct from the product Claims 1-5 originally in the application and on which an action on the merits had been issued. Accordingly, the Examiner held that a constructive election had occurred and withdrew the claims from consideration as being directed to a non-elected invention under 37 CFR § 1.142(b). Applicant traverses this requirement because the bag and method, as claimed, are interdependent. A search of one invention is substantially coextensive with the other and does not impose any additional burden on the Office.

REJECTION UNDER 35 USC 112

Claims 1-5 stand rejected under 35 USC § 112, second paragraph, as lacking antecedent basis for "the contents" as recited in Claim 1 at line 3. Applicants amendment to the claims have addressed this issue and it is believed the claims now comply with 35 USC § 112 to the extent they did not previously comply.

REJECTION UNDER 35 USC § 102

Claims 1, 2 and 5 stand rejected under 35 USC § 102(b) as being anticipated by Kristensen (USPN 5,059,035). Kristensen describes a flexible pouch with a self opening spout to facilitate pouring fluid from the pouch into other containers (column1, lines 5-12). A recessed area (36) on the side of the pouch facilitates insertion of the spout into the necks of containers of varying diameter.

This rejection is traversed. The pouch shown in Kristensen does not have the features of the instant claims, e.g. Claim 1. In spite of the Examiner's assertion to the contrary, there is no diagonal sealed portion extending from any top seal to one of the sides to provide support for the opening when the contents are expelled. Only a small portion of the seal is Kristensen is diagonal and it could not perform the function of the diagonal seal connecting the top and side of the bag of the present invention. Moreover, there is no notch in the side of the pouch on the side opposite the side that the diagonal heat seal intersects as recited in instant Claim 5.

REJECTION UNDER 35 USC § 103

Claims 3 and 4 stand rejected under 45 USC § 103(a) as unpatentable over Kristensen in view of Official Notice that bags containing chemicals, including powders or lumps, are old and obvious and well known. It is noted that the Examiner has identified references showing plastic containers containing chemicals materials, e.g. Nichols (USPN 2,542,206) shows packaging nuts and Sherman (USPN 3,412,918) shows packaging "material" using conventional equipment (column2, lines 69-72) and applicant acknowledges these, and the other references the Examiner has cited for what they teach. However, the rejection is traversed since the basic deficiencies of the Kristensen reference are not overcome as noted with respect to the rejection under 35 USC § 102. The present invention relates to a specific pattern of sealing a plastic bag so that the bag is reinforced and can be cut or torn to form an opening from which the contents can be expelled while the bag remains supported by the sealing pattern. The references do not teach or show this. Sherman shows a method of forming a pouring spout using a sealing pattern, but does it in a different way (column 2, lines 5-9). See also reference to a diagonal seal at column 3, lines 3-5.

However, this is different from the sealing pattern of the present invention and does not teach the spatial relationship between the top and diagonal sealing patterns as described in instant Claims 10-12, 15 and 17-19. It is further noted that the notch in Sherman is in a completely different location than recited in instant Claims 5 and 12.

It is believed that the claims are now in condition for allowance and favorable consideration is respectfully requested.

The Commissioner is hereby authorized to charge any fee required for this filing, including but not limited to the additional claims fee, to Deposit Account No. 50-0231 as follows:

CLAIMS AS AMENDED					
Claims	Current Number Filed	Highest Number Previously Paid For	Number Claims of Extra	Rate	Amount Due
Total Claims (37 CFR 1.16(c))	21	- 20 =	1 x	\$18.00	\$18.00
Independent Claims (37 CFR 1.16(b))	4	- 3 =	1 x	\$86.00	\$86.00
Multiple Dependent Claim(s), if any (37 CFR 1.16(d))		=	NONE		
TOTAL CLAIMS FEE DUE				\$104.00	
Two (2) month extension fee				<u>\$420.00</u>	
TOTAL FEES DUE:				<u>\$524.00</u>	

Respectfully submitted,

Date: 7 September 2004

JOHNSON DIVERSEY, INC.
8310 16th Street - MS 509
P.O. Box 902
Sturtevant, WI 53177-0902
Telephone: (262) 631-4196
Facsimile: (262) 631-4021

By



Warren R. Bovee, Esq.
Attorney for Applicants
Reg. No. 26,434